

**Board of Forestry and Fire Protection
Title 14 of the California Code of Regulations**

[Notice Published October 6, 2006]

15 - Day Notice of Public Hearing for Modifications to Proposed Regulation

ROAD MANAGEMENT PLAN, 2006

The California State Board of Forestry and Fire Protection (Board) is proposing adoption of amendments to a previously noticed regulation of Title 14 of the California Code of Regulations (14 CCR) described below after considering all comments, objections, and recommendations regarding the proposed action.

Amend:

§ 895	Abbreviations Applicable Throughout the Chapter
§1037	THP Preharvest Inspection-Filing Return

Adopt Permanently:

§ 1093	Road Management Plan
§ 1093.1	Definitions
§ 1093.2	Guidelines for Orderly Evaluation of Activities Proposed by an RMP.
§ 1093.3	Content of Road Management Plan
§ 1093.4	Limitation on Information Requirements
§ 1093.5	RMP Effective Period
§ 1093.6	Notice of Filing

PUBLIC HEARING DATE

Pursuant to the requirements of Government Code § 11346.8(c), and Title 1 of the California Code of Regulations § 44, the Board is providing notice of changes made to proposed regulations listed above which were the subject of a regulatory hearing on September 14, 2006. The Board will hold a public hearing to adopt final rule language. **The public hearing is to be held at 8:00 a.m. on Wednesday, November 8, 2006, at the Resources Building Auditorium, 1st Floor, 1416 Ninth Street, Sacramento, California.**

PUBLIC COMMENTS

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the 15-Day Notice. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M., on Monday, October 23, 2006. The Board will consider only written comments received at the Board office by that time (in addition to those comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board held a public hearing on September 14, 2006, to amend existing sections and adopt new sections of the Forest Practice Rules (FPR) under 14 CCR, Chapter 4, Subchapter 7, Article 6.9. § 895 Abbreviations Applicable throughout the Chapter; §1037 THP Preharvest Inspection-Filing Return; § 1093 Road Management Plan; § 1093.1 Definitions; § 1093.2 Guidelines for Orderly Evaluation of Activities Proposed by an RMP; § 1093.3 Content of Road Management Plan; § 1093.4 Limitation on Information Requirements; § 1093.5; RMP Effective Period; and § 1093.6 Notice of Filing. This hearing was the initial public hearing.

The initial 45-Day proposed amendments allow for the preparation and submission of a Road Management Plan (RMP). This plan would describe the use, maintenance, construction, reconstruction, and abandonment of roads on an ownership over time, with the intent of identifying potential adverse impacts arising from improperly installed or poorly maintained roads, landings, and crossings, and mitigating such impacts. An RMP would thereby address potential long-term, watershed-wide impacts, reducing cumulative impacts to water quality and improving aquatic habitat for fish and other wildlife populations.

During the September 14, 2006 hearing, the Board received comments from the public and government agencies both in writing and in testimony. The Board considered all written and oral comments before them at the hearing. The Board found it necessary to incorporate recommended changes to the rule provided by the public resources agencies (California Department of Forestry and Fire Protection (CDF), Monterey Air Pollution Control District, and Central Valley Regional Water Quality Control Board) and members of the public. The changes primarily relate to the following:

- ☐ Edits to rule numbering system to be clear and consistent with the existing regulatory numbering system;
- ☐ Minor grammatical changes;
- ☐ Clarity on expressed need for consideration of air quality effects and air quality laws;
- ☐ Clarification on focusing the RMP scope to forest roads;
- ☐ Clarification on the scope of analysis for noxious weeds;
- ☐ Clarification on an appropriate map scale for a RMP;
- ☐ Clarification on the way the RMP discloses consistency with the listed general standard practices;
- ☐ Clarification on standard practices related to drainage facilities, concentrating road water runoff, and timing of installation of drainage facilities.
- ☐ Deletion of redundant sections on amendments to an RMP and changes of ownership.

Upon Board staff incorporating changes generally described above, the Board was presented rule amendments on October 4, 2006, at a regular Board meeting. At this meeting, the Board directed staff to issue a 15-Day notice of public hearing for rulemaking (GC § 11346.8(c)) with changes outline above from CDF, other agencies and the public. The Board may adopt any individual proposed change, a selected group of the proposed changes, or all of the proposed changes. The means of identifying the proposed changes is stated later in this notice.

PURPOSE AND NECESSITY OF MODIFICATIONS TO TEXT OF PROPOSED REGULATION

The revisions made to the originally proposed rules included in this 15-Day notice are all sufficiently related to the original rule proposal. The changes include:

1. Edit rule numbering system to be clear and consistent with the existing regulatory numbering system including correcting Article number and new section numbering (14 CCR § 1093 to 1093.6)
2. Minor grammatical changes throughout the rule such as replacing the article “an” with “a” where appropriate, correcting capitalization errors, or eliminating extra spaces.
3. § 1093: (paragraph one) The words “State Board of Forestry and Fire Protection” and “Policies” deleted for clarity. These words are already abbreviated, grammatically incorrect or unnecessary.
4. § 1093 (paragraph three): This paragraph describes the relationship of an RMP to a plan in terms of the adequacy of the cumulative impacts analysis required by the FPRs. The statement, "To the extent that the impacts referred to in the Plan are assessed in a RMP, these issues shall be considered as addressed in the Plan," is not clear. The language is revised so that it is clear that the RMP assessment of potential effects will suffice to meet the requirements of the applicable sections of Technical Addendum No. 2, but issues regarding the mitigation of any identified potential impacts may or may not be addressed by the RMP and may still need specific mitigation in the plan.
5. § 1093.1 (Road Management Unit definition): The term “Management Unit” is used throughout the existing FPRs in relation to Sustained Yield Plans (SYPs), Non Industrial Timber Management Plans (NTMPs), and silvicultural methods. As proposed, an RMP could be submitted as part of a plan, which would include NTMPs and SYPs, making it very difficult for the public and plan reviewers to distinguish between “management units”. To more clearly define this term for use in relation to a Road Management Plan, this term is

revised to “Road Management Unit”. This change is made throughout the proposed language.

6. § 1093.1(Road Management Unit definition): The reference to PRC § 4582.6 is incorrect and deleted.
7. § 1093.1(Road Management Unit definition): The reference to “areas outside the district” is redundant and is revised to allow an analysis of road systems outside an ownership where such areas are appropriate and accessible. The proposed language already allows the analysis to extend beyond the Forest District boundaries if appropriate and with the Director’s concurrence.
8. § 1093.1(Road Management Plan definition): This is edited to clarify the scope of activities intended to be considered in preparing an RMP. The type of “management activities” the RMP is intended to address is more clearly focused on forest resource management. The RMP is not intended to analyze roads related to farming, ranching, or other uses that are not also being used for forest resource management. Additional edits include stating that State forests are an applicable entity for use of a RMP.
9. § 1093.2: This proposed language indicates that an RMP “shall specify measures to be applied . . . as required by [the Act, the Rules,] and other statutory authority” This term is unclear regarding the scope of “other” statutes this section is intended to address, and would leave CDF in a position of determining whether the measures applied meet these “other” statutory requirements, which is beyond the scope of CDF’s authority and responsibility. Through the CEQA process and pursuant to the Forest Practice Rules (ref. § 896), CDF will ensure the plan is consistent with other laws and regulations. Other agencies with direct statutory authority and responsibility can review the plan and ensure the plan conforms to “other” requirements and advise CDF of any changes that need to be made. The rule was edited to strike CDF overseeing other non CDF statutes.
10. § 1093.2: The last sentence states in part, “Specific . . . requirements for an RMP shall include”. There is no requirement for an RMP. An RMP is a document that may be submitted at the option of the timberland owner (ref. § 1093.1). This section should detail the specific requirements “of” an RMP. Language edits are made to change the term for clarity.
11. § 1093.2 (c): An additional objective was added for the RMP to consider air quality impacts related to dust generate from the surface of the road. The specific objective is necessary to ensure that operations with transportation system are conducted consistent with air quality improvement plans, especially in non-attainment air basins.

12. § 1093.3(e): The proposed language requires the RPF to identify and address noxious weed species. The RMP analysis must be done over the entire Road Management Unit (RMU). As such, there could be populations of noxious weed species within the RMU that would not be affected by road management activities. Edits are made to clarify that the identification of noxious weeds should be related to the effects of the transportation system. Furthermore, addressing the potential effects associated with the spread of noxious weeds through road management activities appears to be adequately addressed elsewhere and should be deleted to reduce redundancy.
13. § 1093.3(h): The abbreviation "FPRs" is included as it is already in the abbreviations listed under § 895 of the rules.
14. § 1093.(c)(1)(B): The subsection refers to an "RMP Program", which is unclear and deleted.
15. §1093.3(c)(1)(D): This section requires that the "Goals and Objectives Element" include a "Description of the RMP . . .". Since an RMP is a Road Management Plan, a description of a plan does not seem appropriate information to include in a plan. Edits are made to more appropriately require a description of the "Road Management Unit". Other clarity edits have also been made.
16. §1093.3(c)(2)(B): The abbreviation "RMP" is deleted and replaced with "Road Management Unit" as previously described. Additionally, the term "airshed" was added as one of the resources to be considered for ensuring conformance with air pollution control air quality improvement plans. The term "constraints" at the end of the sentence was added for clarity.
17. §1093.3(c)(2)(C)(2.): This subdivision requires an inventory of haul roads. Since haul roads are not defined in 14 CCR § 895.1, the term is revised to require "logging" roads to be inventoried. This subsection also requires the RPF to provide a map of the inventoried roads at an appropriate scale, which will be specified in the RMP and approved by the Director. In order to clarify what is an appropriate scale, language is revised.
18. §1093.3(c)(3): This subdivision provides four options. Edits are made to combine Options 2 and 3 for clarity and to reduce duplication. Option 2 and Option 3 both include a "road use" component. These options are retained as Option 2 includes a clear statement of the performance objective and Option 3 details the types of operations that need to be addressed in the operational element.
19. § 1093.4(c)(3)(F): In terms of a RMP review and enforcement, it was not clear what type of information would be required to "Demonstrate" actions consistent with the standard practices listed under subsections (F)(1.) through

(28.). For clarity and to reduce ambiguity the RMP shall include a list of practices that are consistent with the listed general standard practices and that achieve the identified goals and objectives, and has deleted the words “Demonstration of proposed” from this subsection.

20. § 1093.3(c)(3)(F)(10.): The word “culverts” is limiting in that it would be more appropriate to replace this word with “drainage facilities or structures” allowing the RPF to choose the best method for addressing specific conditions or problems.
21. § 1093.4(c)(3)(F)(11.): The phrase “unless appropriate techniques or treatments are utilized” is edited to use “feasible” as there is not any “appropriate techniques” for concentrating road surface water onto watercourses or wetlands.
22. § 1093.4(c)(3)(F)(14.): The term “rainy season” is not defined and will create review and enforcement problems when trying to evaluate compliance with this subsection. Roads should be adequately drained whenever there is a chance for rainfall in amounts that could generate overland flow and sediment delivery to a watercourse. The term “the rainy season” is replaced with language that requires disclosure of timing for installation of drainage structures to be stated in the RMP. Adequacy of that date will be determined as part of the RMP and plan approval.
23. §§ 1093.3(c)(5)(C) and 1093.8: The initially proposed section 14 CCR § 1093.8 in the 45-Day notice language describes the procedures for amending an RMP and refers to similar sections in the rules that are applicable to a timber harvesting plan. This reference and the stated provisions may not be appropriate for changes to other plans such as an NTMP, PTEIR, or SYP. Once a plan is approved that has an RMP included as a part of the plan, then the rules applicable to amending that type of plan shall apply. Therefore, § 1093.8 is not necessary and should be deleted for clarity and consistency with existing rules. Additionally, the reference to this section in § 1093.3(c)(5)(C) is be deleted.
24. § 1093.6: This section refers to 14 CCR § 1037, the “THP Preharvest Inspection – Filing Return” section of the rules applicable to a THP. This reference is also appropriate for review of other plans such as an NTMP, PTEIR, or SYP. Once a plan is submitted that has an RMP included as a part of the plan, then the rules applicable to the review of that type of plan shall apply. Therefore, § 1093.6 is revised to delete this reference.
25. § 1093.9 (as shown in the initial 45 day notice language): This section refers to 14 CCR § 1042, the “Change of Ownership” section of the rules applicable to a THP. This reference may also to apply to other plans such as an NTMP, PTEIR, or SYP. Once a plan is submitted that has an RMP included as a part

of the plan, then the rules applicable to a change of ownership for that type of plan shall apply. Therefore, § 1093.9 is deleted.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone number (916) 653-5602.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

A copy of the express terms of the proposed regulation is available on request.

A copy of the express terms of the proposed regulation is also available on the Board of Forestry and Fire Protection web page:

http://www.fire.ca.gov/bof/board/board_proposed_rule_packages.html.

Additionally, all the information considered as the basis for this proposed regulation (i.e., rulemaking file) is available to the public at the Board's office listed above.

TEXT OF MODIFIED REGULATIONS

In order to clearly indicate those sections proposed for change in this notice, the text is presented in the following format:

The Board has illustrated changes to the original text in the following manner:


- additions originally proposed on July 28, 2006, is UNDERLINED
- deletions originally proposed on July 28, 2006, is ~~SINGLE STRIKEOUT~~
- additions to the previously noticed language is DOUBLE-UNDERLINED

- deletions to the previously noticed language is ~~DOUBLE STRIKEOUT~~

Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.



Christopher Zimny
Regulations Coordinator
Board of Forestry and Fire Protection

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